

REMARKS

The last Office Action has been carefully considered.

It is noted that claims 1-3 and 7 are rejected under 35 U.S.C. 102(b) over the patent to Winter.

Claim 4 is rejected under 35 U.S.C. 103(a) over the patent to Winter.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) over the patent to Winter in view of the applicant's admitted prior art.

Also, the drawings and the specification are objected to and the claims are rejected under 35 U.S.C. 112.

In connection with the Examiner's objection to the drawings and the specification, applicants have submitted herewith a copy of the drawing with the proposed correction and amended the specification.

It is believed that the grounds for the formal objections and rejections are therefore eliminated.

In view of the Examiner's rejection of claim 1 under 35 U.S.C. 112, claim 1 has been amended correspondingly, and additional claim 16 has been added to define another embodiment, which has been removed from claim 1.

In view of the Examiner's rejection of the claim over the art, claim 2 has been canceled and its features have been introduced into claim 1.

It is respectfully submitted that claim 1 as amended clearly and patentably distinguishes the present invention from the prior art applied by the Examiner.

The Examiner rejected the original claims over the patent to Winter.

In paragraph 9 the Examiner indicated that in the case of breaking the transmission housing 24 in this reference, the driven wheel 24

comes directly into contact with the supporting element 52. However, it is believed that this is not so. It can be seen from Figure 1 of the patent to Winter that the distance (gap 56) between the supporting element formed as the threaded bushing 52 and the supporting part 42 is many times smaller than the distance between the supporting element or the threaded bushing 52 and the driven shaft of the worm wheel 24. The patent to Winter clearly indicates that when an outer force is applied and eventual breakage of the gearing housing 28 occurs, the supporting shoulder 50 of the bracket 42 abuts the mating shoulder 54 of the threaded nut 52. Since both the threaded nut 52 and the worm wheel 24 are connected non rotatably with the metal spindle formed as the threaded spindle 26, the distance between both parts is substantially constant, so that in the event of breakage of the transmission housing 28, the worm gear 24 can not directly about against the threaded nut 52 or the web 47 of the bracket 42. In this embodiment disclosed in the patent to Winter, an additional holding bracket 42 is needed which supports the supporting element 52 arranged outside of the transmission housing 24. As a result, a higher space consumption and a higher manufacturing expense is required.

With respect to claim 2, it is indicated that the supporting element 52 is arranged between the worm gear 24 and the inner side of the

transmission housing 28. This however completely contradicts to argumentation with respect to claim 1 and Figures 1 and 2 in the patent to Winter. The supporting element 52 is clearly located outside of the transmission housing 28. Reference numeral 42 identifies a metallic U-shaped supporting part which is mounted on the ends of the U-legs 44, 46 on the hinge pin 38. The gearing housing 28, to the contrary, is also composed of synthetic plastic. The supporting part 42 performs no bearing or supporting functions for the transmission components. A person of ordinary skill in the art who familiarized himself with the teaching of the patent to Winter would have no hint or suggestion to provide the features which are defined in claim 2, in particular the supporting element arranged between the wheel and the inner wall of the transmission housing.

It is therefore believed to be clear that the new features of the present invention which are defined in the amended claim 1 are not disclosed in the references and can not be derived from them as a matter of obviousness.

Claim 1 should be considered as patentably distinguishing over the art and should be allowed.

The same arguments are completely applicable with respect to claim 16, which is the second independent claim on file.

The original claims were rejected over the patent to Winters as anticipated. In connection with this, applicants wish to cite the decision in re Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 221 USPQ 481, 485 (Fed. Cir. 1984) in which it was stated:

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim."

Definitely, the reference does not contain all features of the present invention as defined in claims 1 and 16, and therefore the anticipation rejection should be considered as no longer tenable and should be withdrawn.

The new features of the present invention as defined in claims 1 and 16, also can not be considered as obvious from the teaching of the reference (or references). In order to arrive at the applicant's invention from the teachings of the references, the references have to be fundamentally modified. However, it is known that in order to arrive at a claimed invention,

by modifying the references the cited art must itself contain a suggestion for such a modification.

This principle has also been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision in *re Randol and Redford* (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggestion; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.


There is no hint or suggestion in the references for the modifications which are now defined as new features of the present invention in claims 1 and 16.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue.

Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,



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